

## **NORFOLK, VIRGINIA**

### **ACTION OF THE COUNCIL**

**TUESDAY, OCTOBER 22, 2013 – 7:00 P.M.**

Prayer offered by Councilman Paul Riddick, followed by the Pledge of Allegiance.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

**Motion adopted.**

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

### **CERTIFICATION OF CLOSED MEETING**

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

**ACTION:** The Resolution as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

## **CEREMONIAL MATTER**

George Homewood, Assistant Director of Planning, presented to Council and the City Manager certificates from, **“The American Planning Association’s** formal designation of the **West Freemason Neighborhood** as one of the **“Great Places in America: Neighborhoods.”**

## **PUBLIC HEARINGS**

PH-1

**PUBLIC HEARING** scheduled this day pursuant to action of the Council on **October 8, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance of a **GEM Lot** to **New Saint Mark Baptist Church** on property located at **1132 Saint Julian Avenue**.

Thereupon, An Ordinance entitled, “An Ordinance authorizing the conveyance to **New Saint Mark Baptist Church**, of a certain parcel of property, acquired by the City of Norfolk pursuant to Section 58.1-3970.1 of the Code of Virginia, 1950 as amended, and approving the terms and conditions of the Conveyance Agreement,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective November 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

PH-2

**PUBLIC HEARING** scheduled this day pursuant to action of the Council on **October 8, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the sale of City owned property located at **1050 Berkley Avenue** extended, the (former Berkley Lumber Yard) to **Franklin Johnston Group Management & Development, LLC** to develop a 150 unit apartment complex and 25 single family home sites.

Rob Beaman, the attorney for the applicant, 102 Bobby Jones Drive, Portsmouth, was present to answer questions.

Roscoe Calloway, 2240 Campostella Road, spoke concerning this matter.

Thereupon, An Ordinance entitled, “An Ordinance authorizing the **Land Disposition and Development Contract (LDDC)**” to be entered into with **Franklin Johnston Group Management and Development, LLC**, and authorizing the conveyance of real property to **Franklin Johnston Group Management and Development, LLC**, as provided in the LDDC,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective November 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams and Fraim.

No: None.

Abstained: Winn.

PH-3

**PUBLIC HEARING** scheduled this day pursuant to action of the Council on **October 8, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, on the application of **Norfolk Christian Holding Company** for the closing, vacating and discontinuing a portion of **Seekel Street** from the eastern line of **Midfield Street** eastwardly to its terminus.

Tim Daffron, 242 South Blake Road, Rick Nikkel, 6447 Bridle Way and Pat McCarty, 543 Queenswood Terrace, Chesapeake, were present to answer questions.

Thereupon, An Ordinance entitled, “An Ordinance closing, vacating and discontinuing a portion of **Seekel Street** from the eastern line of **Midfield Street** eastwardly to its terminus, and authorizing the conveyance to the abutting property owner of any interest the City may have in the underlying fee of said portion of **Seekel Street**,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective November 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

### **CONSENT AGENDA**

C-1 Letter from the City Manager recommending an **Invitation to Bid** be scheduled to accept bids on a Parking **Agreement** for the benefit of the tenants of the proposed residential apartment building on property located at **401 Granby Street**.

**ACTION:** City Clerk authorized to advertise an Invitation to Bid on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-2 Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of the **City Planning Commission** to amend the **Zoning Ordinance of the City of Norfolk, 1992**, a) to change “**Table 10-A – Table of Land Uses**” for **Special Purpose Districts**, b) allow “**Museum**” as permitted uses within all **TOD (Transit Oriented Development) Districts**, and c) allow “**Two-Family**” as a permitted use with TOD-Support District.

**ACTION:** City Clerk authorized to advertise for a public hearing on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-3

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of the **City Planning Commission** to amend the **Zoning Ordinance of the City of Norfolk, 1992**, to amend **Chapter 6, Commercial Districts**, to allow “**Automobile Sales and Services**” as a permitted use within the **C-4 (Large Scale Commercial) Districts**, subject to specific development standards.

**ACTION:** City Clerk authorized to advertise for a public hearing on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-4

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of **John Chappell a)** to amend the future land use map, “**Map LU-1,**” of the **City’s General Plan, plaNorfolk 2030**, from **Single Family Traditional** to **Industrial**, and **b)** for a change of zoning from **R-11 (Moderate Density Multi-Family)** and **PPRO (Park Place Residential Overlay) Districts** to **Conditional I-1 (Limited Industrial) District** on property located **327 West 26<sup>th</sup> Street**.

**ACTION:** City Clerk authorized to advertise for a public hearing on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-5

Letter from the City Manager presenting recommendation of the **City Planning Commission** on the application of **Tidewater Commerce Center a)** to amend the future land use map, “**Map LU-1**”, of the **City’s General Plan, plaNorfolk 2030**, from **Industrial** to **Commercial** and **b)** for a change of zoning from **I-1 (Limited Industrial) District** to **Conditional C-2 (Corridor Commercial) District** on property located at **630 and 660 Tidewater Drive**.

**ACTION:** City Clerk authorized to advertise for a public hearing on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-6

Letter from the City Manager recommending a public hearing be held to hear comments on the sale of city-owned land to the **Hampton Roads Sanitation District** and **Vacation and Acceptance of Easements** of the **VIP Treatment Plant** in **Lamberts Point**.

**ACTION:** City Clerk authorized to advertise for a public hearing on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-7

Letter from the City Manager recommending a public hearing be held to hear comments on the sale of city-owned land to **John W. Bonney Family Trust** on property located adjacent to **1357 Windsor Point Road**.

**ACTION:** City Clerk authorized to advertise for a public hearing on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

C-8

Letter from the City Manager recommending an **INVITATION TO BID** be scheduled to accept bids for a **40-Year Lease** on property located at **108 East Tazewell Street**.

**ACTION:** City Clerk authorized to advertise an Invitation to Bid on November 26, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn and Fraim.

No: None.

### **REGULAR AGENDA**

R-1

Letter from the City Manager and an Ordinance entitled, "An Ordinance granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **7525 Tidewater Drive, Suite 18**," was introduced in writing and read by its title.

Crystal Stump, the consultant, 1807 South Church Street, Smithfield, VA, was present to answer questions.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

R-2

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **4136 Granby Street**,” was introduced in writing and read by its title.

Wendell Green, the architect, 860 Greenbrier Circle Court, Chesapeake, was present to answer questions.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-3

Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **820 Shirley Avenue**,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-3A

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **820 Shirley Avenue**,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an eating and drinking establishment on property located at **245 Granby Street, Suite 243**,” was introduced in writing and read by its title.

Michael Imprevento, the applicant, 5008 Bliven Lane, Virginia Beach, was present to answer questions

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an automobile and truck repair facility on property located at **3501 Westminster Avenue**,” was introduced in writing and read by its title.

Elizabeth Twohy, the owner, 1829 Addington Road, Virginia Beach, was present to answer questions.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Smigiel, Whibley, Williams, Winn and Fraim.

No. Riddick.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the construction of a **Communication Tower (Commercial)** on property located at **2519 Hanson Avenue**,” will be introduced in writing and read by its title.

Glenn Hampton, the attorney, 501 Independence Parkway, Chesapeake, was present to answer questions.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.



R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to operate an entertainment establishment on property located at **1309 Raleigh Avenue**,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-8

Letter from the City Manager and the following two Ordinances:

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an entertainment establishment on property located at **1525 Bayville Street**,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-8A

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **1525 Bayville Street**,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Pedestrian Commercial Overlay District Development Certificate** to permit the renovation of an industrial building for mixed uses and an addition to the building located at **945 to 949 Woodrow Avenue**,” was introduced in writing and read by its title.

Jane Cantin, the applicant, 945 Woodrow Avenue, was present to answer questions.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-10

Letter from the City Manager and An Ordinance entitled, “An Ordinance accepting \$8,000 in grant funds from the **Alliance for Community Trees** and appropriating and authorizing the expenditure of the grant funds to purchase trees that will be planted in riparian areas of the City,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

None.

R-11

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain **Article XII, Chapter 25** of the **Norfolk City Code, 1979**, **SO AS TO** add one new **Section, Numbered 25-637**, providing persons operating wheelchairs the same rights and duties as pedestrians,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the conveyance to the **City of Norfolk by Norfolk Redevelopment and Housing Authority** of certain parcels of property that are currently part of the **35<sup>th</sup> Street Merchant’s Parking Lot**, located on the south side of **35<sup>th</sup> Street** at the **s/w corner of 35<sup>th</sup> Street and Newport Avenue**, and authorizing the City Manager to accept the **Deed** on behalf of the City,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance authorizing the conveyance to **Norfolk Redevelopment and Housing Authority** of those certain parcels of property described as the eastern portions of **Lots 30, 31, 32 and 33 in Block 36** as shown on that certain **Plat** entitled **“East Ocean View, Plat A, Section No. 2,”** was introduced in writing and read by its title.

**ACTION:** Councilman Smigiel made the motion to continue this matter to November 19, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-14

Letter from the City Manager and a Resolution entitled, “A Resolution to approve and concur with the issuance by the **Economic Development Authority of Lancaster County, Virginia**, of a not to exceed \$10,000,000 Refunding Revenue Bond the proceeds of which will be loaned to the **James Barry-Robinson Home for Boys Trust** to assist the **Trust** in the refinancing of **St. Patrick Catholic School** located at **1000 Bolling Avenue**, Norfolk, Virginia, and upon which the City shall not have any payment obligation,” was introduced in writing and read by its title.

Kevin White, the attorney, 1903 Prince Edward Road, Richmond, VA, was present to answer questions.

**ACTION:** The Resolution as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the dedication of three permanent utility easements over, under and through certain property owned by the **Salvation Army**, and authorizing the City Manager to accept a **Deed of Easement** on behalf of the City,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-16

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the acceptance of a **Justice Assistance Grant Program, Bureau of Justice Assistance, U.S. Department of Justice**, grant of \$46,957.00 from the **Virginia Department of Criminal Justice Services**, for the comprehensive study of the City of **Norfolk’s Juvenile Justice System**, appropriating and authorizing expenditure of the grant funds and authorizing expenditure of \$5,217.00 from previously appropriated funds as a local cash match,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

None.

R-17

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a **Lease Agreement** between **Lowery Road, LLC** and the **City of Norfolk**, and authorizing the execution of the **Lease Agreement** on behalf of the City,” was introduced in writing and read by its title.

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-18

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer** to issue a refund to **Stacy Smith & Associates, P.C.**, \$7,729.80 plus interest based upon the overpayment of **Business License Tax for 2013**,” was introduced in writing and read by its title. (This refund is based on the overpayment of Business License Tax for Tax Year 2013).

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-19

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer** to issue a refund to the **Atlantic Group Inc.**, \$21,284.63 plus interest based upon the overpayment of **Business Personal Property Tax for 2013**,” was introduced in writing and read by its title. (This refund is based on the overpayment of Business Personal Property Tax for Tax Year 2013).

**ACTION:** The Ordinance as introduced was **adopted**, effective October 22, 2013.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No. None.

R-20

Letter from the Real Estate Assessor requesting confirmation of the appointment of **Janet N. Jones** to **Real Estate Appraiser I**, effective October 15, 2013.

**ACTION:** Appointment confirmed.

Yes: Burfoot, Protogyrou, Riddick, Smigiel, Whibley, Williams, Winn, and Fraim.

No: None.

## **NEW BUSINESS**

The followings persons thanked Council for banning the box on employment applications and asked Council to consider hiring ex-offenders, because they just need a second chance to make a different.

1. Karen Sweeney, 805 Johnston Road, Roy Holley, 712 Atterbery Court, Virginia Beach and James Powell, 1043 Avenue G.
2. Donald Hornstein, 1309 Stockley Gardens, spoke regarding the depilated building at 161 Granby Street. He informed Council that he cannot get any help for his business due to the conditions of 161 Granby Street; and asked Council for some help in moving the process forward on 161 Granby Street so that he can secure a loan.
3. Robert Soscia, 155 Granby Street, owner of Uncle Al's, spoke to Council concerning his business, and about the financial hardship that he is currently experiencing due to 161 Granby Street.
4. Joe Cook, 1147 Surrey Crescent, spoke concerning the mishandling of a rape investigation case by the Norfolk Police Department. He stated that the Police Department has done a poor job investigating the case.
5. Dan Montague, 4605 Krick Street, asked Council to review the senior tax relief program.
6. Danny Lee Ginn, 3844 Dare Circle, commented on good government.